

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL MCCUNE, :
: 4:09-cv-1603
Petitioner, :
: Hon. John E. Jones III
v. :
: Hon. J. Andrew Smyser
JERRY MARTINEZ, WARDEN, :
: Respondent . :
:

MEMORANDUM

January 12, 2010

THE BACKGROUND OF THIS MEMORANDUM IS AS FOLLOWS:

Petitioner Michael McCune (“Petitioner” or “McCune”) filed the instant habeas petition pursuant to 28 U.S.C. § 2241 seeking to lengthen his 180-day placement in a pre-release Residential Re-entry Center (“RCC”) that was recommended and approved by the Bureau of Prisons (“BOP”). On November 12, 2009, Magistrate Judge Smyser issued a Report and Recommendation (“R&R”) (Doc. 14) that recommended the Court excuse McCune’s failure to exhaust his administrative remedies and that the writ of habeas corpus be granted to the extent that the BOP be required to reconsider McCune’s RCC placement. The parties interposed objections to the R&R. (Docs. 17, 18, 19 and 20).

On January 8, 2010 Prior to this Court's review of the R&R, the Respondent filed a Notice to Court (Doc. 21), informing the Court that the Petitioner was transferred to the Renaissance Community Corrections Center in Detroit, Michigan on December 29, 2009. The Respondent requests that the habeas petition be dismissed as moot inasmuch as the Petitioner has received the relief sought.

It is well established that a "case should be dismissed as moot where 'developments occur during the course of adjudication that eliminate a plaintiff's personal stake in the outcome of a suit or prevent a court from being able to grant the requested relief.'" *Randall v. Martinez*, No. 4:CV-07-2151, slip op. At 2-3 (M.D. Pa., Jan. 30, 2009)(Jones, J.)(quoting *Morris v. Nationalist Movement*, 273 F.3d 427, 533 (3d Cir. 2001); *see also Burkey v. Marberry*, 556 F. 3d 142, 146-147 (3d Cir. 2009)). In this case, the Petitioner requested to be placed in an RCC in his prayer for relief. This relief has been afforded to Petitioner. Thus, this action is now moot.

Accordingly, based on the foregoing, we shall dismiss the petition for habeas corpus as moot, and direct the Clerk to close this case. An appropriate Order shall issue.